REMARKS

A. Introduction

Claims 1-18 were pending and under consideration in the application.

In the Office Action of September 29, 2008, claims 8-11 and 18 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

Claims 1-3, 5, 6, 12, and 14-17 were rejected under 35 U.S.C. §102(e) as being anticipated by Chen et al., U.S. 7,027,982, (hereinafter, "*Chen*").

Claims 4, 7, and 13 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Chen* in view of Chiang, U.S. 6,779,015 (hereinafter, "*Chiang*").

In response, claims 4, 9-11, and 13 are being canceled. The remaining claims are hereby being amended for clarity and to obviate the § 101 rejection. Support for the amendments may be found in paragraphs 0060-0076 of the application as published as US 2006/0153402. No new matter is being added.

B. Rejections under 35 U.S.C. §102(e)

Claims 1-3, 5, 6, 12, and 14-17 were rejected under 35 U.S.C. 102(e) as being anticipated by *Chen*.

Chen discloses an audio encoder for regulating quality and bit rate with a control strategy that regulates quantization using quality, minimum bit count, and maximum bit count parameters. The encoder: regulates quantization using a noise measure that indicates reliability of a complexity measure and normalizes a control parameter value according to block size for a variable-size block; uses a bit-count control loop de-linked from a quality control loop; addresses non-monotonicity of quality measurement as a function of quantization level when selecting a quantization level; uses particular interpolation rules to find a quantization level in a quality or

bit-count control loop; filters a control parameter value to smooth quality; and corrects model bias by adjusting a control parameter value in view of current buffer fullness. *Chen*, abstract.

Chen fails to teach or suggest determining a white-noise level of an extracted white-noise component of a frequency transformed audio signal and generating a first index by quantizing the white-noise level contained in the audio signal; generating a second index designating a start location of a random-number table adapted to generate a white-noise component in a decoding side; and encoding (i) a quantized value resulting from normalization and quantization of the frequency transformed audio signal, (ii) the first index , and (iii) the second index, as presently claimed in each of independent claims 1 and 6.

Neither does *Chen* teach or suggest generating a white-noise component on a time axis, based on (i) a first encoded index indicating the energy level of the white-noise component and (ii) a second encoded index designating a start location of a random-number table, as presently claimed in each of independent claims 12 and 14.

A finding that a claim is anticipated requires that "each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil Co. of California, 814 F. 2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Because *Chen* fails to disclose at least the features of the claims discussed above, claims 1, 6, 12, and 14, and their respective dependent claims, are patentable over *Chen*.

C.   Rejections under 35 U.S.C. §103(a)

Claims 4, 7, and 13 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Chen* in view of *Chiang*.

Chiang was cited for disclosing a method of encoding a signal through the use of a random number look-up table. Whether or not this is true, such disclosure fails to cure the deficiency noted above.

D.   Conclusion

In view of the foregoing, it is submitted that claims 1-3, 5-8, 12, and 14-18 are allowable and early notice to that effect is respectfully requested.

If the Examiner believes that, for any reason, direct contact with Applicants' attorney would help advance the prosecution of this case to finality, the Examiner is invited to telephone the undersigned at the number given below, for purposes of arranging for a telephonic interview. Any communication initiated by this paragraph should be deemed an Applicant-Initiated Interview.

If any further fees are required in connection with the filing of this amendment, please charge the same to out Deposit Account No. 19-3140.

Respectfully submitted,

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